

THE UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

Case No. 06-14013

vs.

HONORABLE MARIANNE BATTANI
HONORABLE STEVEN D. PEPE

\$8,820.00 IN UNITED STATES CURRENCY
AND ASSORTED JEWELRY
Defendants.

Opinion and Order (Dkt # 19)

This is an *in rem* civil forfeiture action instituted September 12, 2006 under 21 U.S.C. § 881(a)(6) against \$8,820.00 in United States Currency and Assorted Jewelry. (Dkt. #1)

Plaintiff, the United States of America, alleges that the currency and jewelry were furnished in exchange for controlled substance and/or proceeds traceable to such an exchange. Marlan Micah McRae and Treasures Diamond Store through Akif Mahmud have filed verified claims to certain of the property on December 5, 2006. (Dkt. # 7 & #8.) The Plaintiff filed interrogatories, requests for admission and document requests on McRae and Treasures Diamond Store, c/o Akif Mahmud on April 4, 2007. Responses were due on or before May 7, 2007, adding the three days under Fed. R. Civ. P. 6(e) for service by mail. No responses were received and the Plaintiff agreed to an extension for the discovery responses and to the Court's scheduling order. When no responses were received on the agreed extension date of June 18, 2007, the Plaintiff filed a motion to compel which was referred for hearing and determination pursuant to 28 U.S.C.

§ 636(b)(1)(A). (Dkt. # 7 - #8 & #20.)

The matters regarding Claimant Marlon RCRae have now been resolved. Claimant Akif Mahmud acting for Treasures Diamond Store has not responded to the discovery. Nor has Akif Mahmud or Treasures Diamond Store filed a response to Plaintiff's motion to compel. A hearing was held on this matter on August 8. Counsel for Akif Mahmud acting for Treasures Diamond Store noted difficulty with language and other coordination problems in getting responses from Akif Mahmud for Treasures Diamond Store. He noted an intent to seek to withdrawal from representing Treasures Diamond Store in this matter. This discovery was sought over four months ago, and there appears no sufficient reason why Akif Mahmud of Treasures Diamond Store has not responded to Plaintiff's discovery requests.

Accordingly, IT IS ORDERED, that on or before September 10, 2007, Akif Mahmud on behalf of Treasures Diamond Store, or some other appropriate agent on behalf of claimant Treasures Diamond Store, shall answer the Plaintiff's interrogatories and requests for admissions, produce the requested documents and sign the Tax Authorization Forms. Originally two weeks was anticipated as adequate time for these responses, the Plaintiff sought answers in one week. Yet, the 30 days is selected in order to provide claimant Treasures Diamond Store adequate time to answer whether by cooperating with its current counsel or by selecting substitute counsel. Failure to answer may result in assessment of sanctions including costs as well as this Court's denial of Akif Mahmud and/of Treasures Diamond Store claims to the property in this case by Treasures Diamond Store.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72 and E.D. Mich. LR 72.1(d).

SO ORDERED.

Dated: August 8, 2007
Flint, Michigan

s/Steven D. Pepe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2007, I electronically filed the foregoing paper with the clerk of the Court using the ECF system which will send notification of such filing to the following: Todd R. Perkins, Philip A. Ross, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: not applicable

s/ James P. Peltier
James P. Peltier
Courtroom Deputy Clerk
810-341-7850
pete_peltier@mied.uscourts.gov